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STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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House Bill 5110 (H-1 Draft 1)

Topic: Fire-safe Cigarettes
Sponsor: Representative Sak
Co-sponsors: Representatives Johnson, Scott, Marleu, Wojno, Bieda, Ward, Virgil Smith, Tobocman, Farrah, Gaffney, and Dean
Committee: House Regulatory Reform

Date Introduced: August 21, 2007

Date of Summary: January 15, 2008

The bill creates the Fire Safety Standard and Firefighter Protection Act. It is based on a model act developed by the Coalition for Fire-Safe Cigarettes that has been adopted in one form or another in 22 states and Canada.

The bill would require that all cigarettes sold in Michigan be fire-safe. The bill adopts a national testing standard and establishes a performance standard that no more than 25% of cigarettes tested exhibit full-length burns. For cigarettes that use lowered permeability bands in the paper to meet the designated performance standard, the bill mandates the location of the bands.

Manufacturers are required to certify cigarettes by submitting a written certification to the Department of Labor & Economic Growth that the cigarettes have been tested and meet the designated performance standard. Recertification is required every 3 years. Manufacturers would be required to pay \$1,000 for each brand family listed in the certification.

Cigarettes certified as fire-safe are required to be marked as such. Marks must be submitted to the department for approval. A proposed marking is considered approved if the department fails to approve or disapprove it within 10 business days. Marks used in New York, which was the first state to adopt such a requirement, must be approved by the department.

A manufacturer is required to provide a copy of the certification to each wholesale dealer, unclassified acquirer, and agent to whom the manufacturer sells and sufficient copies of an illustration of its package marking. The wholesaler is required to provide a copy of the manufacturer's package markings to each secondary wholesaler a retail dealer to which it sells. The state is authorized to inspect cigarette package markings.

Penalties in the bill include \$100 per pack up to \$100,000 for knowingly selling or offering to sell cigarettes in violation of the requirement. Penalties for similar violations in retail sales are limited to \$25,000 during any 30-day period. A false certification can be penalized with a civil fine of not less than \$75,000 and not more than \$100,000. Other violations may be subject to penalties of \$1,000 for the first violation and \$5,000 for each subsequent violation. In addition, the department or the Attorney

General may commence an action in which the court may order injunctive or other equitable relief, enforcement costs, reasonable attorney fees and costs, or all of these remedies.

The Attorney General, the Departments of Treasury and Labor & Economic Growth and other law enforcement personnel are authorized to examine books, papers, invoices, and other records related to cigarette stocks.

Wholesalers and retailers are permitted to sell existing stocks. Cigarettes that do not meet the requirements may be manufactured or sold if they are or will be stamped for sale in another state or are packaged for sale outside the country. However, reasonable steps must be taken to ensure that such cigarettes will not be sold or offered for sale in Michigan.

The bill is tie-barred to House Bill 5111. It takes effect on January 1, 2009.